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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,292	10/25/2001	Frederick M. Morgan	C01104/70089 (RFG/JT)	1752

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EXAMINER
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A, MINH D

ART UNIT	PAPER NUMBER
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2821

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Offic Action Summary</b>	Application N .	Applicant(s)
	10/040,292	MORGAN ET AL.
	Examiner Minh D A	Art Unit 2821

-- The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 27 May 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-62 is/are pending in the application.

4a) Of the above claim(s) 63-73 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-11,20-33 and 35-60 is/are rejected.

7) Claim(s) 12-19,34 and 61 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8 and 12.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

***DETAILED ACTION***

1. Applicant's election without traverse of 1-62 in Paper No. 12 is acknowledged and claims 63-73 have been withdrawn from consideration.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1,5,10, 11, 20-33, 35, 37-38 and 61 are rejected under 35 U.S.C. 102(e) as being unpatentable by Tompkins et al (US 6,253,227).

Regarding claims 1,10, 11, 33,35 and 61, Tompkins discloses spa control system comprising: at least one LED (52); and an interface (38) coupled to the at least one LED(52), the interface (38) being adapted to engage mechanically and electrically with a conventional pool light socket(30). See figures 1-6,col.2, lines 40-67 to col.8, lines 1-67.

Regarding claim 5, Tompkins discloses the conventional pool light socket includes fluorescent light socket, and wherein the interface is adapted to engage mechanically and electrically with the fluorescent light socket. See col.col.4, lines 3-30.

Regarding claims 20-22, Tompkins discloses the at least one light source is adapted to generate radiation of different colors without requiring the use of a color filter. See col.4, lines 3-11.

Regarding claims 23-32, Tompkins discloses the at least one LED includes at least two independently controllable LEDs or the at least one light source includes at least two independently controllable light sources or the at least two independently controllable light sources include at least two independently addressable light sources or the at least one light source is adapted to generate a remotely controllable variable radiation output or at least one controller coupled to the at least one light source to control radiation output by the at least one light source or at least one controller is adapted to control a color of the radiation output by the at least one light source or the at least one controller is adapted to control an intensity of the radiation output by the at least one light source or the at least one controller outputs at least one control signal to the at least one light source to control the radiation output by the at least one light source; and the at least one control signal includes at least one pulse width modulated signal or the at least one controller outputs at least one control signal to the at least one light source to control the radiation output by the at least one light source; and the at least one control signal includes at least one variable analog signal or the at least one LED includes at least a first LED and a second LED, the first and second LEDs having

different colors; and the at least one controller is adapted to control a first intensity of the first LED and a second intensity of the second LED or at least one storage device, coupled to the at least one controller, to store at least one illumination program, wherein the at least one controller is adapted to execute the at least one illumination program so as to control the radiation output by the at least one light source. See figures 1-14, col.2, lines 40-67 to col.20, lines 1-67.

Regarding claims 37-38, Tompkins discloses the at least one LED includes at least two differently colored LEDs or the at least one LED includes at least one red LED, at least one green LED, and at least one blue LED. See col.4, lines 3-65.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-9, 36, 40-46 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Tompkins et al(US 6,253,227).

Regarding claims 2-9, Tompkins discloses the claimed invention except for a screw type light socket or a bayonet type light socket or a multi-pin light socket or a halogen light socket or a double-ended halogen light socket or MR-16 light socket or a wedge type light socket. It would have been an obvious matter of design choice to have

for a screw type light socket or a bayonet type light socket or a multi-pin light socket or a halogen light socket or a double-ended halogen light socket or MR-16 light socket or a wedge type light socket, since applicant has not disclosed that a screw type light socket or a bayonet type light socket or a multi-pin light socket or a halogen light socket or a double-ended halogen light socket or MR-16 light socket or a wedge type light socket solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with for a screw type light socket or a bayonet type light socket or a multi-pin light socket or a halogen light socket or a double-ended halogen light socket or MR-16 light socket or a wedge type light socket.

Regarding claims 36, Tompkins discloses the interface includes means for engaging mechanically and electrically the at least one LED with the wedge type light socket.

Regarding claims 40-46 and 55, Tompkins discloses the claimed invention except for the encapsulant or diameter of approximately 0.09 inches or each pin of the two pins has a length of approximately 0.46 inches or distance of approximately 0.25 inches or at least one rubber grommet to facilitate mechanical engagement of the interface and the wedge type light socket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the encapsulant or diameter of approximately 0.09 inches or each pin of the two pins has a length of approximately 0.46 inches or distance of approximately 0.25 inches or at least one rubber grommet to facilitate mechanical engagement of the interface and the wedge type light socket, since it has been held to be within the general skill in the art to select a

known material on the basis of its suitability for the intended use as a matter of obvious design choice.

***Allowable Subject Matter***

6. Claims 12-15, 16-19, 34, 39 and 61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach or fairly suggest that, the one of the pool and the spa has a range of typical liquid levels of the liquid during use, and wherein the at least one light source is adapted to be disposed below the range of typical liquid levels in dependent claim 12.

The prior art does not teach or fairly suggest that, an interface coupled to the at least one light source, the interface being adapted to engage mechanically and electrically with a conventional light socket supported by the one of the pool and the spa in dependent claim 16.

The prior art does teach or fairly suggest the at least one light source includes at least a first light source and a second light source each adapted to be supported by the one of the pool and the spa and to illuminate the liquid contained in the one of the pool and the spa, wherein the at least one controller includes at least a first controller coupled to the first light source and a second controller coupled to the second light source, and wherein: each of the first controller and the second controller is

independently addressable; and the first controller and the second controller are coupled together to form a networked lighting system in dependent claim 34.

The prior art does not teach or fairly suggest the one of the pool and the spa has a range of typical liquid levels of the liquid during use, wherein the wedge type light socket is located below the range of typical liquid levels, and wherein the light fixture further includes: an encapsulant to protect the at least one LED from moisture in dependent claim 39.

The prior art does not teach or fairly suggest that, the one of the pool and the spa has a range of typical liquid levels of the liquid during use, wherein the wedge type light socket is located below the range of typical liquid levels, and wherein the act a) comprises an act of: engaging the at least one light fixture, below the range of typical liquid levels, with the wedge type light socket in dependent claim 61.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Silveri. (US RES 37,055) and Silveri. (US 5,221,444) are cited to show a light pool.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (703) 605-4247. The examiner can normally be reached on M-F (7:30 —4:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (703) 308-4856. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and (703) 872-9319 for final communications.

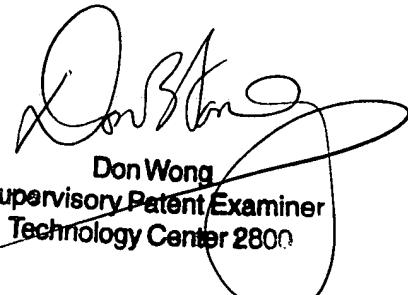
Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.

Examiner

Minh A

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08/08/03



Don Wong  
Supervisory Patent Examiner  
Technology Center 2800